

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF WEST VIRGINIA

UNITED STATES OF AMERICA,
Plaintiff,

v.

Criminal No. 1:04cr13-6

DREENA BIRCH,
Defendant.

ORDER/OPINION

On the 11th day of December 2006, came the defendant, Dreena Birch, in person and by her counsel, Brian J. Kornbrath, and the United States by Zelda E. Wesley, Assistant United States Attorney, pursuant to a Petition for Warrant or Summons for Offender Under Supervision filed in this case on November 28, 2006, alleging Defendant:

1. Violated the Mandatory Condition that she refrain from any unlawful use of a controlled substance and
2. Violated the Special Condition that she participate in a program of testing, counseling and treatment for the use of alcohol or drugs if so ordered by the Probation Officer.

As grounds for the alleged violations Defendant's Probation Officer stated that Defendant submitted a urine specimen on November 15, 2006, which tested positive for cocaine base. Defendant admitted to having used cocaine base prior to the test. Defendant has additionally tested positive on two prior occasions, and consequently was instructed by the Probation Officer to attend at least two Narcotics Anonymous sessions per week. Defendant has failed to comply.

The Probation Officer further informed the Court that two previous reports had been submitted regarding Defendant, one on June 5, 2006, and one on August 24, 2006.

Prior to the taking of evidence, Defendant waived the preliminary hearing in writing, conceding probable cause existed to forward this revocation matter to United States District Judge Robert E. Maxwell for hearing and disposition.

The Court then explained the charges contained in the Petition and the effect of the proposed

waiver to Defendant and inquired of her as to the voluntariness of her decision to waive the preliminary hearing. From the colloquy between the Court and the defendant, the Court concludes Defendant's decision to waive the preliminary hearing was knowingly and voluntarily made.

Upon consideration of all which, the Court finds there is probable cause to believe that the defendant violated the conditions of her supervised release as alleged in the Petition for Warrant or Summons for Offender Under Supervision filed November 28, 2006.

It is therefore **ORDERED** that the defendant be bound over for a full hearing before the Honorable Robert E. Maxwell, United States District Judge for the Northern District of West Virginia on the violations alleged in the Petition for Warrant or Summons for Offender Under Supervision dated November 28, 2006.

Defendant moved for release pending further proceedings before the Court. The Government objected to Defendant's release. For reasons apparent to the Court and as stated on the record, Defendant's motion for release pending further proceedings is **DENIED**.

It is therefore **ORDERED** that Defendant is remanded to the custody of the United States Marshal pending further proceedings.

The clerk of the court is directed to send a copy of this order to counsel of record.

DATED: December 13, 2006

/s/ *John S. Kaull*

JOHN S. KAULL

UNITED STATES MAGISTRATE JUDGE